

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Judge William Robert Schroeder III

ADAPTIX, INC.	§	
	§	
V.	§	CIVIL NO. 6:12cv17
	§	
AT&T, INC., et al	§	
	§	
ADAPTIX, INC.	§	
	§	
V.	§	CIVIL NO. 6:12cv20
	§	
PANTECH WIRELESS, INC., et al	§	
	§	
ADAPTIX, INC.	§	
	§	
V.	§	CIVIL NO. 6:12cv120
	§	
CELLCO PARTNERSHIP, et al	§	

MINUTES FOR EVIDENTIARY HEARING
HELD BEFORE JUDGE WILLIAM ROBERT SCHROEDER III
AUGUST 27, 2015

OPEN: 2:05 pm

ADJOURN: 3:31 pm

ATTORNEY FOR PLAINTIFFS: See Attorney Sign-In Sheet

ATTORNEY FOR DEFENDANTS: See Attorney Sign-In Sheet

LAW CLERK: Boone Baxter

COURTROOM DEPUTY: Betty Schroeder

COURT REPORTER: Brenda Butler

2:05 pm Case called; parties introduced themselves and announced ready; Court welcomes parties; outlines schedule for the hearing

2:09 pm Mr. Foster argues objections to Report & Recommendation (dkt. #363 for case - 17; dkt. #354 for -20; and dkt. #340 for -120) - Kessler issue

2:16pm Mr. Pankratz responds

2:26 pm Court - You make a point that Brain Life barred method claims in the second suit, even though they were not asserted in the first suit. But doesn't Kessler, when triggered, apply to the whole patent, not just asserted claims? Mr. Pankratz responds

2:28 pm Court - Doesn't Brain Life say an accused infringer must demonstrate non-infringement in the prior suit? Mr. Pankratz responds

2:30 pm Mr. Foster responds

2:37 pm Mr. Pankratz responds

2:38 pm Mr. Foster responds

2:39 pm Mr. Foster argues contributory infringement

2:42 pm Mr. Chachkes responds

2:55 pm Court - If we agree on this point, does that leave Adaptix to sue you in the future employee use? Mr. Chachkes responds

2:57 pm Mr. Foster responds

2:59 pm Court - Just to be clear, you don't have any evidence of employee use, right? Mr. Foster responds

3:00 pm Court - How would you procedurally, at this late stage of the game, would you do that? Mr. Foster responds

3:03 pm Mr. Chachkes responds

3:04 pm Court - is the manufacturer-customer relationship is enough to create privity? Mr. Chackles responds. If the Court were to find that the end users are not in privity, what would be left of the case? Mr. Chachkes responds

3:05 pm Mr. Foster argues claim preclusion

3:15 pm Mr. Pankratz responds

3:26 pm Mr. Fisher responds

3:29 pm Court suggests to parties a short briefing done on expedited basis...a week to ten days from now? Mr. Godfrey responds; Court responds, parties get together to come up with a schedule

3:31 pm Recess